



Juice Tree, Inc., 7300 Bolsa Avenue, Westminster, California 92683

1803 '00 AUG 10 10:57
Phone 714/891-4425
FAX 714/892-3699

August 7, 2000

DOCKETS MANAGEMENT BRANCH (HFA-305)
Food and Drug Administration , Room 1061
5630 Fishers Lane
Rockville, MD 20852

RE: Docket No. 00N-135
Food Labeling: Use of the Term "Fresh" for Foods Processed
With Alternative Nonthermal Technologies

Thank you for opening this very important issue for public discussion.

INTRODUCTION

Juice Tree, Inc., manufactures commercial juice machines used by retailers who prepare fresh juice on site of sale. The following comments regarding referenced Docket No. 00N-1351 are made as the proposed rule would relate to fresh juices.

It is Juice Tree's interest to speak on behalf of retailers who squeeze fresh juice on site and to protect their customers from being misled by "Fresh" being used to describe a processed juice.

It is Juice Tree's position the term or descriptor "Fresh" or "Fresh Squeezed" should be used only for orange juice that is (a) squeezed and sold at the same retail location within 24 to 48 hours after squeezing; (b) labeled with the date squeezed or the date by which it should be consumed.

It is misleading the public and a misuse of the term "Fresh" to allow juice that has been squeezed, transported in tankers, blended with other juices in a manufacturing environment, processed or treated, then transported again hundreds or thousands of miles to be labeled as "Fresh" or "Fresh Squeezed."

"See it squeezed, know it's Fresh"

00N-1351

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FOOD LABELING

Consumers want to know and have a right to know if and how their food is processed.

The purpose of labeling regulations is to give information to consumers so that an informed choice can be made. When information is withheld or when information is misleading, the consumer loses the right to make an informed choice.

We label with nutritional information, we label with warnings; we label if food has been pasteurized or frozen. What rationale would justify not informing consumers how juices are being processed?

Efforts to have the FDA allow the term “Fresh” to apply to processed juice is only a marketing issue. There is no benefit to the consumer. In fact it would be a disservice to the consumer.

Consumers want and deserve a way to identify foods that have been processed.

JULY 21, 2000, FDA/INDUSTRY MEETING

At the July 21, 2000, FDA/Industry meeting on the use of the term “fresh” there were claims that food safety is a justification for labeling juice processed with new technologies as “fresh” because the juice “appears to be fresh.” Appears to be fresh is not the same as fresh. Almost the same is not the same as. Minimally processed juice is not fresh juice.

Attendees at the meeting identified a number of different technologies, most still in the laboratory or testing stages. This brings up many questions: Would the proposed rule apply to all new or alternative technologies? What is the criteria to define what is “new or alternative” technology? Would the rule apply to future “new” technology? Do all the technologies have the same impact on the end product? Should one term be used to identify the different technologies?

Dr. Charles Sizer of the National Center for Food Safety & Technology stated in his presentation that there is some thermal element in almost every process. If there is ANY thermal element, can the technology still be considered “Alternative Nonthermal” as stated in the Proposed Rule?

Just asking the above questions leads to the conclusion that the proposed rule would be confusing, misleading and not in the interest of the consumers right to know.

Also, process alone does not assure food safety. There are recalls and outbreaks contributed to foods that have been pasteurized or otherwise processed. Recent juice food borne illness outbreaks were traced to manufacturers thought to be juice industry leaders in food safety practices. But these manufacturers ignored or by-passed good manufacturing practices. What assurance is there that the new technologies will be properly applied? Food safety is a concern for all of us in the food industry. It is not justification for mislabeling or misleading labels.

MEANING OF THE TERM FRESH

Fresh means food in its natural, original state: food that has not been cooked or frozen or treated. Fresh denotes a product as perishable, but not perished. Webster defines “fresh” as being newly produced, gathered, or made...having its original qualities unimpaired. There is a general understanding of the meaning of “fresh,” but there are no exact measurements that can be given to define “fresh.”

It is Juice Tree’s contention that time from squeezing to consumer purchase must be a consideration when using the term “fresh” or “just squeezed” as a descriptor for orange juice. It is Juice Tree’s contention that “Fresh” should not be allowed on the label of processed juices.

IMPACT ON SMALL BUSINESS

Allowing the term fresh to be used on foods processed in manufacturing would place small firms in jeopardy. They would be forced to compete with products that are allowed to be marketed as the same when in fact they are not the same. They would have no way to differentiate their products.

CONCLUSION

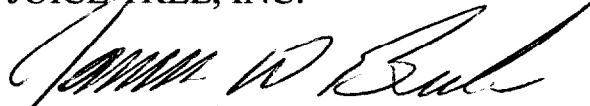
Integrity of the word "Fresh" must be protected. As it relates to fresh orange juice, it should define juice with a brief amount of time from squeezing to drinking. Juice Tree requests FDA define the descriptor for "Fresh" or "Fresh Squeezed" orange juice as orange juice that is squeezed and sold at the same retail location within 24 to 48 hours.

Food processed with alternative technologies should not be labeled as fresh. Allowing food processed to be called "Fresh" is misleading to the consumer and a misuse of the term "fresh."

Thank you for consideration given these comments.

Sincerely yours,

JUICE TREE, INC.

A handwritten signature in black ink, appearing to read "James D. Beck", written over a horizontal line.

James D. Beck
President



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